

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

DIGITAL REG OF TEXAS, LLC,

No. C 12-1971 CW

Plaintiff,

ORDER ON MOTIONS
TO SEAL (Docket

v.

Nos. 588, 590,

ADOBE SYSTEMS, INC., et al.,

603, 607, 616,

Defendants.

621, 627, 646,

650, 654, 656,

701, 719, 725)

_____/

Before the Court are numerous administrative motions to seal filed by both parties.

Under Civil Local Rule 79-5, a document may be filed under seal only if a party establishes that the portions sought to be sealed "are privileged, protectable as a trade secret or otherwise entitled to protection under the law." Civ. L.R. 79-5(b). Any sealing request must be narrowly tailored to cover only sealable material. Id. The request must be supported by the designating party's declaration establishing that the information is sealable. Id. subsection (d).

"Historically, courts have recognized a 'general right to inspect and copy public records and documents, including judicial records and documents.'" Kamakana v. City & Cnty. of Honolulu, 447 F.3d 1172, 1178 (9th Cir. 2006). In considering a sealing request, the Court begins with "a strong presumption of access [as] the starting point." Id.

Here, each of the administrative motions to seal is made in connection with dispositive motions. A party seeking to seal records attached to a dispositive motion bears the burden of

1 establishing "compelling reasons supported by specific factual
 2 findings that outweigh the general history of access and the
 3 public policies favoring disclosure." Id. at 1178-79. This is
 4 because dispositive motions represent "the heart of the interest
 5 in ensuring the public's understanding of the judicial process and
 6 of significant public events." Id. at 1179.

7 The Court provides the following rulings on the parties'
 8 motions to seal, as articulated in the table below.

Docket No.	Ruling
588	<p>Digital Reg seeks to file under seal (1) the unredacted version of its brief in opposition to certain legal defenses raised by Adobe; and (2) certain exhibits to the declaration of W. Paul Schuck in support of that brief. The motion is DENIED. With respect to Digital Reg's brief, the motion is denied for failure to comply with Civ. L.R. 79-5(d)(1)(D), which provides both that the unredacted version "must indicate, by highlighting or other clear method, the portions of the document that have been omitted from the redacted version," and that the unredacted version "prominently display the notation UNREDACTED VERSION OF DOCUMENT(S) SOUGHT TO BE SEALED." With respect to Exhibits A, B, C, E, F, G, H, I, J, K, L, M, N, O, P, Q, R, and S to the Schuck declaration, the motion is denied for failure to comply with Civ. L.R. 79-5(b), which requires that</p>

1		a request to seal be "narrowly tailored to seek
2		sealing only of sealable material." It appears
3		that Digital Reg made no attempt whatsoever to
4		narrowly tailor its request by providing the Court
5		with redacted and unredacted versions of these
6		exhibits, but instead merely provided a cover page
7		for each reading "DOCUMENT SUBMITTED UNDER SEAL."
8		The rule requires more. Digital Reg may resubmit
9		a modified and narrowly tailored version of this
10		sealing request no later than seven days from the
11		date of this order. Specifically with regard to
12		the listed exhibits, Digital Reg must submit both
13		redacted and unredacted versions of each exhibit,
14		with redactions narrowly tailored to only sealable
15		material; if Digital Reg believes that an exhibit
16		should be sealed in its entirety, it must explain
17		why in an accompanying declaration.
18	590	Adobe seeks permission to seal (1) the unredacted
19		version of its motions in limine; (2) the
20		unredacted version of its brief regarding certain
21		legal defenses; (3) several exhibits to the
22		declaration of Byron C. Beebe; and (4) the
23		unredacted version of Exhibit 10 to the Beebe
24		declaration. With respect to Adobe's motions in
25		limine, its brief, and Exhibits 2 and 10, the
26		motion is GRANTED, because Adobe limits its
27		redactions to financial and otherwise confidential
28		

1		information. With regard to Exhibits 1, 4, 5, 6,
2		8, 9, 12, 14, 17, and 18, which Adobe seeks to
3		seal in their entirety, the motion is DENIED for
4		failure to comply with Civ. L.R. 79-5(b), which
5		requires that requests to seal be narrowly
6		tailored. Adobe may, within seven days from the
7		date of this order, resubmit a modified and
8		narrowly tailored version of this sealing request,
9		with redactions narrowly tailored to only sealable
10		material; if Adobe believes that an exhibit should
11		be sealed in its entirety, it must explain why in
12		an accompanying declaration.
13	603	Adobe seeks permission to seal (1) the unredacted
14		version of its response to Digital Reg's motions
15		in limine; and (2) certain exhibits to the
16		declaration of Byron C. Beebe in support of that
17		response. With respect to the response brief, the
18		motion is GRANTED, because Adobe limits its
19		redactions to confidential information. With
20		respect to Exhibits 5, 6, 7, and 10 to the Beebe
21		declaration, which Adobe seeks to seal in their
22		entirety, the motion is DENIED for failure to
23		comply with Civ. L.R. 79-5(b), which requires that
24		requests to seal be narrowly tailored. Adobe may,
25		within seven days from the date of this order,
26		resubmit a modified and narrowly tailored version
27		of this sealing request, with redactions narrowly

1		tailored to only sealable material; if Adobe
2		believes that an exhibit should be sealed in its
3		entirety, it must explain why in an accompanying
4		declaration.
5	607	Digital Reg seeks permission to seal (1) the
6		unredacted version of its response to Adobe's
7		motions in limine; and (2) certain exhibits to the
8		declaration of W. Paul Schuck in support of that
9		response. The motion is DENIED. With respect to
10		Digital Reg's response, the motion is denied for
11		failure to comply with Civ. L.R. 79-5(d) (1) (D),
12		which requires that the unredacted version show,
13		by highlighting or other equally clear method, the
14		material that has been omitted from the redacted
15		version. With respect to Exhibits A, B, C, D, E,
16		F, G, H, I, J, K, L, O, P, and T to the Schuck
17		declaration, which Digital Reg seeks to seal in
18		their entirety, the motion is denied for failure
19		to comply with Civ. L.R. 79-5(b), which requires
20		that requests to seal be narrowly tailored.
21		Digital Reg may resubmit a modified and narrowly
22		tailored version of this sealing request no later
23		than seven days from the date of this order.
24		Specifically with regard to the listed exhibits,
25		Digital Reg must submit both redacted and
26		unredacted versions of each exhibit, with
27		redactions narrowly tailored to only sealable
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1		material; if Digital Reg believes that an exhibit
2		should be sealed in its entirety, it must explain
3		why in an accompanying declaration.
4	616	Digital Reg seeks permission to seal citations to
5		the record indicating use of Adobe's ALM
6		technology in its AMT product. The motion is
7		DENIED for failure to comply with Civ. L.R.
8		79-5(d)(1)(D), which requires that the unredacted
9		version show, by highlighting or other equally
10		clear method, the material that has been omitted
11		from the redacted version. Digital Reg may,
12		within seven days of the date of this order,
13		resubmit a modified and narrowly tailored version
14		of this sealing request.
15	621	Adobe seeks permission to seal the unredacted
16		version of its response to Digital Reg's ALM-AMT
17		citations to the record. The motion is DENIED for
18		failure to comply with Civ. L.R. 79-5(d)(1)(D),
19		which requires that the unredacted version show,
20		by highlighting or other equally clear method, the
21		material that has been omitted from the redacted
22		version. Adobe may, within seven days of this
23		order, resubmit a modified and narrowly tailored
24		version of this sealing request.
25	627	Adobe seeks permission to seal (1) the unredacted
26		version of its update to its motions in limine and
27		objection to Digital Reg's supplemental expert
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1		report; and (2) Exhibit A to that update. With
2		respect to the update brief, the motion is
3		GRANTED, because Adobe limits its request to
4		confidential financial information. With respect
5		to Exhibit A, which Adobe seeks to seal in its
6		entirety, the motion is DENIED for failure to
7		comply with Civ. L.R. 79-5(b), which requires that
8		requests to seal be narrowly tailored. Adobe may,
9		within seven days from the date of this order,
10		resubmit a modified and narrowly tailored version
11		of this sealing request, with redactions narrowly
12		tailored to only sealable material; if Adobe
13		believes that the exhibit should be sealed in its
14		entirety, it must explain why in an accompanying
15		declaration.
16	646	Digital Reg seeks permission to seal Exhibit A to
17		the identification of deposition testimony for
18		presentation at trial of Joseph Jones. Because
19		the request is limited to confidential technical
20		information, the motion is GRANTED.
21	650	Adobe seeks permission to seal its reply brief
22		concerning its renewed motion to exclude the
23		testimony of Digital Reg's damages expert, Mr.
24		Russell Parr. The motion is DENIED for failure to
25		comply with Civ. L.R. 79-5(d)(1)(D), which
26		requires that the unredacted version show, by
27		highlighting or other equally clear method, the
28		

1		material that has been omitted from the redacted
2		version. Adobe may, within seven days of this
3		order, resubmit a modified version of this sealing
4		request that includes an unredacted version of the
5		reply brief showing, via highlighting or other
6		clear method, the portions of the document that
7		have been omitted from the redacted version.
8	654	Adobe seeks permission to seal the rebuttal expert
9		report of its damages expert, Dr. Stephen D.
10		Prowse. Although Mr. Pradhan's declaration in
11		support of the motion identifies specific
12		paragraphs of the report that contain confidential
13		information, Adobe does not seek to redact that
14		information, but rather appears to seek to seal
15		the report in its entirety. The motion is DENIED
16		for failure to comply with Civ. L.R. 79-5(b),
17		which requires that requests to seal be narrowly
18		tailored. Adobe may, within seven days of this
19		order, resubmit a modified version of this sealing
20		request with redactions narrowly tailored to only
21		sealable material; if Adobe believes that the
22		exhibit should be sealed in its entirety, it must
23		explain why in an accompanying declaration.
24	656	Digital Reg seeks permission to seal its
25		opposition brief to Adobe's renewed motion to
26		exclude the testimony of Mr. Parr. The motion is
27		DENIED for failure to comply with Civ. L.R.
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1		79-5(d)(1)(D), which requires that the unredacted
2		version show, by highlighting or other clear
3		method, the material that was omitted from the
4		redacted version. Digital Reg may, within seven
5		days of this order, resubmit a modified version of
6		this sealing request.
7	701	Digital Reg seeks permission to seal the
8		unredacted version of its offer of proof regarding
9		Trial Exhibits 43, 44, and 45, including three
10		attachments to the offer of proof. With respect
11		to the attachments, the motion is GRANTED. With
12		respect to the offer of proof, the motion is
13		DENIED for failure to comply with Civ. L.R. 79-
14		5(d)(1)(D), which requires that the unredacted
15		version show, by highlighting or other clear
16		method, the material that was omitted from the
17		redacted version. Digital Reg may, within seven
18		days of this order, resubmit a modified and
19		narrowly tailored version of this sealing request.
20	719	Digital Reg seeks permission to seal several
21		demonstrative exhibits submitted in support of its
22		offer of proof for Trial Exhibits 175A, 175B, and
23		176C. Although Mr. Schuck states in his
24		declaration that the demonstratives contain
25		confidential information, Digital Reg seeks to
26		seal them in their entirety rather than merely
27		redacting the confidential information. The
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1		motion is DENIED for failure to comply with Civ.
2		L.R. 79-5(b), which requires that requests to seal
3		be narrowly tailored. Digital Reg may, within
4		seven days of this order, resubmit a modified and
5		narrowly tailored version of this sealing request
6		with redactions narrowly tailored to only sealable
7		material; if Digital Reg believes that the exhibit
8		should be sealed in its entirety, it must explain
9		why in an accompanying declaration..
10	725	Digital Reg seeks permission to seal (1) Trial
11		Exhibits 43a, 44, 45a, 46, 98, and 100, which are
12		license agreements and/or settlement agreements,
13		each of which contains confidential financial
14		information; and (2) Trial Exhibit 695, a
15		demonstrative exhibit that sets forth key terms
16		for patent licenses and/or settlement agreements.
17		Because the request is limited to financial or
18		other confidential information, the motion is
19		GRANTED.

20 Judgment will enter after all of these outstanding motions
21 have been decided.

22 IT IS SO ORDERED.

23 Dated: November 14, 2014

24 
CLAUDIA WILKEN
United States District Judge